

## SMALL CELL FACTS AND LEGISLATIVE PRINCIPLES

### FACTS

- **UNDER FEDERAL LAW, MARYLAND LOCAL GOVERNMENTS MAY NOT PROHIBIT THE PROVISION OF WIRELESS COMMUNICATIONS SERVICES, BUT RETAIN AUTHORITY TO REQUIRE ZONING COMPLIANCE AND TO REQUIRE FAIR AND REASONABLE COMPENSATION**
  - When asked to name specific problems they seek to solve, industry has not provided any specific problem, but prefers to have a one size-fit-all zoning standard in all MD counties, cities and towns.
- **SMALL CELLS PROVIDE TARGETED CAPACITY IMPROVEMENTS BUT ANTENNAS MUST BE MUCH CLOSER TO USER DEVICES**
  - 5G will exacerbate existing disparities in deployment.
  - 57 small cell antennas fit into the 1 mile radius covered by current macro towers.
  - Each small cell provides as much capacity as the current taller macrocell, *but for a much small coverage area*
- **MARKET-DRIVEN 5G WILL EXACERBATE THE URBAN-RURAL AND INCOME-BASED DIGITAL DIVIDE**
  - 5G will be deployed in urban areas.
  - Wireless telephone and wireline broadband does not reach all neighborhoods. Verizon FIOS does not serve Baltimore City, western Maryland or the Eastern Shore.
  - Industry has not offered to provide 5G service throughout the state or to take measures to address service gaps in rural areas.
  - The wireless industry has not offered support for digital literacy programs or lower cost devices to help low income residents to bridge the digital divide.
- **INDUSTRY CLAIMS THERE WILL BE NEW JOBS AND INVESTMENTS CREATED BY 5G, BUT HAS NOT SHARED WHAT THOSE NEW JOBS WILL BE**
  - Community colleges could be valuable partners to trained a prepared workforce throughout Maryland.
- **INDUSTRY IS TRYING TO PREEMPT LOCAL AUTHORITY OVER SMALL CELLS, STATE BY STATE**



## States with Small Cell in ROW Laws

(As of 2/26/2018)

2 states adopted legislation to preempt local siting in 2016.

- Ohio in process of being overturned

13 states legislatures have adopted preemption in 2017.

- California was vetoed
- McAllen challenge survives Motion to Dismiss

13 states have pending legislation

Illinois passed but held in Senate – Not yet sent to Gov.

Virginia is taking second pass at legislation, having already passed a bill

- New York Bill is part of budget



Source TeleCommUnity – Best, Best and Krieger

# SMALL CELL FACTS AND LEGISLATIVE PRINCIPLES

## LOCAL GOVERNMENT PRINCIPLES

- **PREFERENTIAL TREATMENT IS NOT NEEDED FOR THE WIRELESS INDUSTRY**
  - Telecommunications permits are less 1% of local permits issued
  - Wireless carriers want monopoly access without requirements to serve all neighborhoods
  - Below-cost permit fees are not needed for the wireless industry, while wireline communications, developers and local business and residents pay the full cost or subsidize the wireless industry
- **NO LEGISLATION IS NEEDED LIMIT REGULATORY FEES TO COST**
  - Fees are already required to be cost-based under Maryland case law
- **ELIMINATING GOVERNMENT COMPENSATION DOES NOT DRIVE DEPLOYMENT**
  - Verizon FIOS does not serve rural Maryland counties with no franchise fees
  - When urban and rural public property is priced the same, market investment will flow to urban areas to the neglect of rural areas
  - There is no evidence that lower fees in urban areas will drive invest in rural areas, or that statewide elimination of fees in other states resulted in more comparative deployment
- **LOCAL GOVERNMENTS HAVE A RIGHT TO NEGOTIATE PUBLIC PRIVATE PARTNERSHIPS (P3S) TO BRING THE BENEFITS OF 5G WIRELESS AND NEW WIRELESS TECHNOLOGIES TO LOCAL COMMUNITIES**
  - A maximum cap on local charges for use of public property is negotiable, but it must be market-based, not cost-based
  - Industry should not be able to mandate below market rate access to public property, but charge market rates for public safety to use infrastructure on public property
- **INDUSTRY AND GOVERNMENT MUST WORK TOGETHER TO ADDRESS SERVICE GAPS AND DIGITAL INCLUSION STRATEGIES**
  - Application review standards and factors used to apply local discretion should be transparent
  - Strategic digital inclusion and technology-adoption programs must be part of the advanced wireless revolution
- **DESIGN SHOULD BE BEAUTIFUL**
  - Communities and homeowners use zoning and regulation as tools to manage development in ways that protect home values and enhance community uses.
  - Wireless providers should not be permitted to install the ugliest, cheapest, poles and designs, wherever they please, without regard for the residents who live and invest in our communities.
  - Community redevelopment, such as maritime, waterfront, and historic areas should not be blighted with ugly attachments, and can be well served with stealth designed poles to support lights, cameras, wifi, and small cell antenna attachments.